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103D CONGRESS
1ST SESSION

# S. 552

To amend title XIX of the Social Security Act to improve programs related to home and community based care and community supported living arrangements, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 10 (legislative day, MARCH 3), 1993

Mr. GRAHAM (for himself and Mr. PRYOR) introduced the following bill; which was read twice and referred to the Committee on Finance

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# A BILL

To amend title XIX of the Social Security Act to improve programs related to home and community based care and community supported living arrangements, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REFERENCES TO SOCIAL SECURITY ACT.**

Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

**SEC. 2. HOME AND COMMUNITY CARE FOR THE FRAIL ELDERLY.**

(a) DEFINITION OF FUNCTIONALLY DISABLED ELDERLY INDIVIDUAL.—Section 1929(b)(1)(C) (42 U.S.C. 1396t(b)(1)(C)) is amended to read as follows:

"(C) subject to section 1902(f) (as applied consistent with section 1902(r)(2))—

"(i) is receiving supplemental security income benefits under title XVI (or under a State plan approved under title XVI), or

"(ii) at the option of the State—

"(I) is described in section 1902(a)(10)(C), or

"(II) has income (as determined under section 1612 for purposes of the supplementary security income program) that does not exceed three times the maximum amount of income that an individual may have and obtain benefits under such program.".

(b) DETERMINATIONS OF FUNCTIONAL DISABILITY.—Section 1929(c)(1) (42 U.S.C. 1396t(c)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "3" and inserting "5", and

(B) by striking "toileting, transferring, and eating; or" and inserting "bathing, dressing, toileting, transferring, and eating;",

(2) in subparagraph (B)—

(A) by striking "of the following 5 activities of daily living: bathing, dressing, toileting, transferring, and eating" and inserting "of the 5 activities of daily living described in subparagraph (A)", and

(B) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following new subparagraphs:

"(C) needs substantial supervision due to cognitive or other mental impairment and needs substantial assistance or supervision from another individual with at least 1 of the 5 activities of daily living described in subparagraph (A) or in complying with a daily drug regimen; or

"(D) needs substantial supervision from another individual because such individual engages in inappropriate behaviors that pose serious health or safety hazards to such individual or others.".

(c) SURVEY AND CERTIFICATION FOR CERTAIN COMMUNITY CARE SETTINGS.—

(1) IN GENERAL.—Section 1929(i) (42 U.S.C.1395t(i)) is amended—

(A) in paragraph (1), by adding at the end the following new subparagraph:

"(D) SPECIAL RULE FOR CERTAIN SMALL COMMUNITY CARE SETTINGS.—For purposes of this paragraph, the terms 'community care setting' and 'setting' shall not include a small community care setting that is not a provider of home and community care.", and

(B) in paragraph (3), by adding at the end the following new subparagraph:

"(F) SPECIAL RULE FOR CERTAIN SMALL COMMUNITY CARE SETTINGS.—For purposes of this paragraph, the terms 'community care setting' and 'setting' shall not include a small community care setting that is not a provider of home and community care.".

(2) ADDITIONAL RESPONSIBILITIES FOR CASE MANAGERS.—Section 1929(d)(2) (42 U.S.C. 1396t(d)(2)) is amended—

(A) by amending subparagraph (A) to read as follows:

"(A) has experience or has been trained—

"(i) in establishing, and in periodically reviewing and revising, individual community care plans;

"(ii) in the provision of case management services to the elderly; and

"(iii) with respect to case managers for individuals residing in small community care settings that are not providers of home and community care, in reviewing the compliance of such settings with the requirements set forth in subsection (g)(2);", and

(B) in subparagraph (B)—

(i) by striking "and (iii)" and inserting "(iii)", and

(ii) by striking "occur;" and inserting "occur; and (iv) reviewing the compliance of small community care settings that are not providers of home and community care with the requirements set forth in subsection (g)(2) in coordination with Ombudsmen selected under the State Long-Term Care Ombudsman program (described in section 712 of the Older Ameri-

cans Act of 1965) and reporting any non-compliance of such settings with such subsection to the State;".

(d) LIMITATION ON AMOUNT OF EXPENDITURES AS MEDICAL ASSISTANCE.—Section 1929(m) (42 U.S.C. 1396t(m)) is amended—

(1) in paragraph (1), by striking "The amount of funds" and inserting "Except as provided in paragraph (5), the amount of funds",

(2) in paragraph (2)—

(A) by striking "Individual Community Care Plan" and inserting "individual community care plan", and

(B) by striking "an election period is the period of 4 or more calendar quarters" and inserting "an election period is a Federal fiscal year",

(3) by amending paragraph (4) to read as follows:

"(4) ALLOCATION OF MEDICAL ASSISTANCE.—

"(A) IN GENERAL.—All of the funds available to be expended under paragraph (1) during a fiscal year shall be available as Federal medical assistance to the States electing to provide

services under this section during such fiscal year.

"(B) GENERAL ALLOCATION FORMULA.—For each fiscal year, beginning with fiscal year 1994, a State which has provided a notice to the Secretary under paragraph (6)(A) shall be allocated an amount of the funds that may be expended under paragraph (1) for such fiscal year equal to the product of—

"(i) the total amount of funds that may be expended under paragraph (1) for such fiscal year; and

"(ii) the amount determined by dividing—

"(I) the number of individuals age 65 or older residing in such State during such fiscal year, by

"(II) the total number of individuals age 65 or older residing in all States which have submitted notices to the Secretary under such paragraph during such fiscal year.

"(C) REALLOCATION OF FUNDS.—

"(i) FORMULA FOR REALLOCATION.—

"(I) GENERAL RULE.—Except as provided in subclause (II), within 60 days after the end of each fiscal year, beginning with fiscal year 1993, the Secretary shall pay to each State which provided services under this section during such fiscal year an amount equal to the product of—

"(aa) the total amount of funds that may be expended under paragraph (1) for such fiscal year which remain available at the end of such fiscal year; and

"(bb) the amount determined by dividing the unavailable Federal amount (as defined in clause (ii)) for such State by the total unavailable Federal amount for all the States which provided services under this section during such fiscal year.

"(II) SPECIAL RULE.—The amount determined for payment to a State under subclause (I) shall not ex-

ceed the unavailable Federal amount for such State.

"(ii) DEFINITION.—For purposes of this subparagraph, the term 'unavailable Federal amount' means the excess of—

"(I) the amount a State would have received in Federal medical assistance based on such State's expenditures for services provided under this section but for the allocation under subparagraph (B), over

"(II) the amount of Federal medical assistance allocated to such State under subparagraph (B).", and

(4) by adding at the end the following new paragraphs:

"(5) CARRYOVER OF FUNDS TO NEXT FISCAL YEAR.—Beginning with fiscal year 1993, any funds available under the limitations set forth in paragraph (1) for a fiscal year which remain available at the end of such fiscal year shall be available to be expended in the following fiscal year.

"(6) NOTICE TO STATES OF AMOUNTS AVAILABLE FOR ASSISTANCE.—

"(A) IN GENERAL.—

"(i) NOTICE TO SECRETARY.—In order to receive Federal medical assistance for expenditures for home and community care under this section for any fiscal year (beginning with fiscal year 1994), a State shall submit not later than 3 months before the beginning of such fiscal year a notice to the Secretary of its intention to provide such care.

"(ii) NOTICE TO STATES.—Not later than 2 months before the beginning of each fiscal year (beginning with fiscal year 1994), the Secretary shall notify each State that has submitted a notice to the Secretary under clause (i) for the fiscal year of the amount of Federal medical assistance that will be available to the State for such fiscal year (as established under paragraph (4)(B)).".

(e) EVALUATIONS AND REPORTS.—Section 1929 (42 U.S.C. 1396t) is amended by adding at the end the following new subsection:

"(n) EVALUATIONS AND REPORTS.—The Secretary shall evaluate the provision of home and community care by States under this section and shall submit to the Com-

mittees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on the effectiveness of such care, including the cost effectiveness of providing such care, and any recommendations for appropriate legislative action.".

(f) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of the enactment of this Act.

**SEC. 3. AMENDMENTS RELATED TO COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES.**

(a) DEVELOPMENTALLY DISABLED INDIVIDUAL DEFINED.—Section 1930(b) (42 U.S.C. 1396u(b)), is amended—

(1) by striking "guardian" and inserting "guardian or", and

(2) by striking "3 other" and inserting "3".

(b) CARRYOVER OF AVAILABLE FUNDS.—Section 1930(j) (42 U.S.C. 1396u(j)) is amended by adding at the end the following new sentence: "Beginning with fiscal year 1993, any funds available under the limitations set forth in this subsection for a fiscal year which remain available at the end of such fiscal year shall be available to be expended in the following fiscal year.".

(c) EVALUATIONS AND REPORTS.—Section 1930 (42 U.S.C. 1396u) is amended by adding at the end the following new subsection:

"(k) EVALUATIONS AND REPORTS.—The Secretary shall evaluate the provision of community supported living arrangements services by States under this section and shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on the effectiveness of such services, including the cost effectiveness of providing such services, and any recommendations for appropriate legislative action.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall be effective on the date of the enactment of this Act.

(2) SPECIAL RULE.—In the case of any State which, on the date of enactment of this Act, provides services under section 1930 of the Social Security Act to 4 individuals residing together for purposes of subsection (b) of such section, the amendment made by subsection (a)(2) shall be effective on October 1, 1994.

**SEC. 4. ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS.**

(a) IN GENERAL.—Section 9342 of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4164(a)(2) of the Omnibus Budget Reconciliation Act of 1990, is amended—

(1) in subsection (c)(1), by striking "4 years" and inserting "6 years",

(2) in subsection (d)(1), by striking "fourth year" and inserting "sixth year", and

(3) in subsection (f)—

(A) by striking "$55,000,000" and inserting "$70,000,000"; and

(B) by striking "$3,000,000" and inserting "$4,000,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of the enactment of this Act.

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